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PENSION STABILITY ACT

JANUARY 9, 2004.—Ordered to be printed

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Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, submitted the following

R E P O R T

[To accompany S. 2005]

The Committee on Health, Education, Labor, and Pensions, reported an original bill (S. 2005) to temporarily replace the use by pension plans of the 30-year treasury bond rate with a composite corporate rate, and to establish a commission on defined benefit plans, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

I. PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of this legislation is to provide a temporary replacement for the 30-year Treasury bond for determining funding liabilities of private sector pension plans, and to establish a blue-ribbon bipartisan commission to make recommendations for comprehensive pension reforms. The bill ensures that comprehensive reforms to the defined benefit system will be enacted by Congress prior to

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the end of the 3-year period by requiring Congress to act upon the commission's recommendations within 120 days of their receipt.

II. Background and Need for Legislation

Current funding and payout calculations for the defined benefit plans in the private sector are based on the 30-year Treasury bond that is no longer being issued. The low interest rate of this bond in recent years means employers must put more cash in their plans to satisfy full funding requirements. The poor performance of the stock market and recent economic downturn compound the problem, resulting in cash-starved companies having to divert capital away from development to fund their pension obligations.

The current liability funding rules require the sponsor to use a specified mortality table and to calculate liabilities using an interest rate that is within a range of rates based upon the four-year weighted average of 30-year Treasury bonds. As amended in 1994, the permissible range is no lower than 90 percent of the 30-year bond average and no higher than 105 percent of the 30-year bond average. In March 2002, Congress enacted the Job Creation and Worker Assistance Act of 2002, Public Law 107–147, which created temporary funding relief for 2002 and 2003 only. A plan may use an interest rate of up to 120 percent of the 30-year bond average. Congress enacted this short term higher range in recognition of the fact that, as a result of the rise of budget surpluses followed by the decision of the Treasury to cease issuing 30-year bonds, the 30-year bond rate had dropped to levels that produced inflated calculations of pension liability.

This higher statement of liabilities can require the diversion of hundreds of millions of dollars in a single company. Overstating liabilities is causing some employers to freeze, modify, or abandon their defined benefit plans, thus adversely impacting retirement security.

The relief granted in JCWAA is set to expire at the end of 2003 and the permissible range will revert to 105 percent of the 30-year Treasury bond rate. The low 30-year Treasury bond rate of recent years means that this reversion will cause many companies to divert cash from capital development, job growth, and critical employee benefits like health care insurance, to pension contributions, or to freeze or terminate their defined benefit plans.

III. Legislative History and Vote in Committee

The Pension Stability Act was set before the committee as an original bill on October 15, 2003, and considered in executive session on October 29, 2003. A substitute, offered by Chairman Gregg, was agreed to without objection and the bill was approved by voice vote by the committee.

IV. Explanation of Bill and Committee Views

The Pension Stability Act provides a responsible, immediate solution to the pension funding crisis facing the economy, while developing the glide path toward permanent defined benefit system funding improvements. It accomplishes these goals through three key components.

REPLACEMENT RATE

The bill temporarily replaces the interest rate used for plan years beginning after December 31, 2003, and before January 1, 2007, in determining current liability for funding and deduction purposes and in determining PBGC variable rate premiums. For these purposes, the provision replaces the interest rate on 30-year Treasury securities with the rate of interest on amounts conservatively invested in long-term corporate bonds.

For purposes of determining a plan's current liability for the relevant years of this temporary fix, the interest rate must be within a permissible range of the weighted average of the rates of interest on amounts conservatively invested in long-term, corporate bonds during the 4-year period ending on the last day before the plan year begins. The rate shall be determined by the Secretary of Labor, in consultation with the Secretary of the Treasury, through regulations on the basis of two or more indices of corporate bonds that are in the top two quality levels available reflecting average maturities of 20 years or more. Such indices shall be publicly available, published by established financial services firms, and based on publicly disclosed methodologies. The single interest rate prescribed by the Secretary's regulation shall be based on the arithmetic average of such indices.

The permissible range for these years is from 90 percent to 100 percent. The Secretary of Labor is directed to publish the interest rate within the permissible range.

In determining the amount of unfunded vested benefits for PBGC variable rate premium purposes for plan years beginning after December 31, 2003, and before January 1, 2007, the interest rate used is the annual yield on amounts invested in long-term corporate bonds for the month preceding the month in which the plan year begins, as determined by the Secretary of Labor, in consultation with the Secretary of the Treasury, on the basis of two or more indices of corporate bonds that are in the top two quality levels available reflecting average maturities of 20 years or more, selected periodically by the Secretary. The Secretary of Labor is directed to publish such annual yield.

The Secretary of Labor, in consultation with the Secretary of the Treasury, is authorized to issue rules to implement the use of the rate of interest on amounts invested in conservative corporate bonds for purposes of the lookback rules. The committee is aware that making calculations of current liability for prior years can be difficult in cases where administrators have changed or where records are otherwise unavailable. Such rules may include simplifying assumptions for determining a plan's current liability for years prior to the effective date.

The committee anticipates that IRS Notice 90–11 will remain in effect throughout the duration of this legislation. That Notice clarifies that any interest rate within the corridor prescribed in ERISA and the Internal Revenue Code is deemed to be consistent with the assumptions that reflect the purchase rates that would be used by insurance companies to satisfy the liabilities under a plan upon plan termination.

By adopting the composite corporate rate for this temporary relief, the committee does not close the debate on what interest rate benchmark is the most appropriate for the long-term stability of the defined benefit system.

DURATION

The Pension Stability Act replaces the 30-year Treasury bond rate with the composite corporate bond rate based on conservative indices for a period of 3 years. This period of time is considered critical to ensure the stability of the pension system, and is the most appropriate duration for setting the stage for permanent and comprehensive reforms.

In the view of the committee members, a shorter term solution, such as the current 2-year fix adopted in 2002, would only exacerbate the uncertainty that businesses and unions face in planning for the future.

It is clear to most observers that 2 years will not be enough time to consider and enact the comprehensive reforms that are needed by the defined benefit system. Already, companies are departing from the system at an alarming rate. In 1983, there were more than 175,000 traditional defined benefit pension plans in the United States. This number has declined ever since and now stands at fewer than 35,000. Further piecemeal reforms will only increase the confusion and continue the decline in defined benefit plans. There is a consensus in Congress that all of the interrelated issues must be reconsidered and revised. These include the benchmarks for determining funding levels and liabilities, mortality tables, and many more issues.

Already there are several new components of reform on the table that must be considered. For example, the Bush Administration has proposed a yield curve approach for determining plan liabilities. This is a novel approach that is not fully understood and its effects have not been fully analyzed. Its impact on companies with older workforces could be very severe. How a new funding regime will impact markets and what effect new accounting rules will have are perhaps even more problematic. Simply put, it will take more than 2 years to build the policy and political consensus for the broad range of reforms that are needed.

Permanent changes to the pension system will require bipartisan cooperation and thorough, time-consuming analysis of innovative proposals. The Pension Stability Act takes into account these needs for a longer time period to resolve these complex issues by adopting a 3-year period for a temporary solution.

The temporary interest rate relief adopted by JCWAA was intended to provide Congress with time to devise a permanent solution. However, Congress has not acted to do so; nor has the administration come forward with comprehensive reform proposals. The committee is concerned that another 2 years of funding relief will lead to yet another 2-year extension in 2005. While this may be convenient from a financial policy perspective, the impact on pension plans and employee benefits policy could be devastating. Companies are already fleeing from the defined benefit system because of cost, complexity and changing demographics. Adding uncertainty—as will be the case with periodic extenders—will only hasten the conversion to other benefits or no benefits programs.

Finally, 3 years of temporary relief takes into account the realities of business planning cycles. Companies must meet long-term business planning goals—in order to obtain financing and to plan for future costs, they need as much information as early as possible about future pension funding obligations. Additionally, the timing of pension reforms will have a direct impact on labor relations because most collective bargaining agreements are at least 3 years in length. Three years of pension funding relief mirrors the terms of these agreements and provides greater certainty for employers and employees at the bargaining table.

BI-PARTISAN BLUE RIBBON COMMISSION

The Pension Stability Act creates a Defined Benefit Plans Commission to review all outstanding issues, including all of the issues that the Bush Administration has put on the table, and report to Congress at the end of 2005. Members of the Commission, appointed by the President and chairmen and ranking members of the relevant committees in the Senate and House of Representatives, will be drawn from government, business, labor, and pension rights groups. The Blue Ribbon Commission demonstrates a clear commitment to responsible, comprehensive reform of the defined benefit system. Everything will be on the table at the Commission; all interested parties are expected to participate or be left out the solution.

This commission is needed because too much money is at stake and the livelihood and security of too many Americans are at risk for these issues to be left purely to the political process. More importantly, however, is the view that these issues are too important, and the dollar figures too big, for an internal task force. Stakeholders in this debate include company financial and human resources officers, stock holders, pension plan participants and beneficiaries, unions, and financial markets. If they are not included in the process, they are more likely to oppose the proffered solutions.

The Pension Stability Act ensures that the recommendations of the Blue Ribbon Commission are addressed by requiring congressional action within 120 days of the publication of the Commission's report. This guarantees that comprehensive, responsible pension reforms will be on the House and Senate floor by April of 2006.

In summary, the Pension Stability Act solves the immediate problems of the pension system, while respecting the need for fiscal responsibility and ensuring that enactment of permanent solutions remains in the forefront of congressional attention.

V. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 4, 2003.

Hon. JUDD GREGG,
Committee on Health Education, Labor, and Pensions,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Pension Stability Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Geoffrey Gerhardt.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pension Stability Act

Summary: The Pension Stability Act would make changes to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code that would affect the operations of private pension plans. Specifically, the bill would make changes to the way pension liabilities are calculated for certain pension plans, which would affect both pension contributions and premiums paid to the Pension Benefit Guaranty Corporation (PBGC).

CBO and the Joint Committee on Taxation (JCT) estimate that enacting the bill would increase federal revenues by $4.9 billion over the 2004–2008 period and reduce revenues by $190 million over the 2004–2013 period. CBO estimates that the bill would increase direct spending by $367 million over the 2005–2013 period. In addition, CBO estimates the bill would increase spending subject to appropriation by $1 million annually over the 2004–2006 period, assuming appropriation of the necessary amounts.

CBO has reviewed the non-tax provisions of the bill and determined that they contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Those provisions also would impose no costs on state, local, or tribal governments.

The bill would make changes to ERISA that would temporarily alter existing private-sector mandates related to the funding of private, defined-benefit pension plans. CBO estimates that the net effect of those provisions would be to reduce the direct cost of the mandates imposed by ERISA on plan sponsors.

Estimated cost to the Federal Government: The estimated budgetary impact of the Pension Stability Act is shown in the following table. The costs of this legislation would fall within budget function 600 (income security).

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN REVENUES										
Estimated Revenues	2,719	3,636	1,137	−1,026	−1,566	−480	−1,136	−1,620	−1,045	−809
CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	0	132	102	82	26	25	0	0	0	0
Estimated Outlays	0	132	102	82	26	25	0	0	0	0
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	1	1	1	0	0	0	0	0	0	0
Estimated Outlays	1	1	1	0	0	0	0	0	0	0

Sources: Congressional Budget Office and Joint Committee on Taxation.

Basis of estimate: For the purposes of this estimate, CBO and JCT assume the bill will be enacted early in 2004.

Revenues

The bill would temporarily replace the interest rate used in determining pension funding and variable-rate premiums paid to the PBGC. Under current law, such liabilities and premiums are determined using the interest rate on 30-year Treasury securities. The bill would replace that rate through December 31, 2006, with the rate of interest on amounts conservatively invested in long-term corporate bonds. Because this change would reduce the contributions sponsors would have to make toward their pension plans, taxable profits would increase and yield higher tax receipts. JCT estimates that the bill would increase federal revenues by $2.7 billion in 2004 and by $4.9 billion over the 2004–2008 period; it would reduce revenues by an estimated $190 million over the 2004–2013 period.

Direct Spending

Temporary Replacement of the 30-Year Bond Rate. Under current law, pension plans are required to determine whether they are fully funded by discounting future pension liabilities using the interest rate based on the moving four-year average for 30-year Treasury bonds. Sponsors of plans that are considered underfunded must make contributions to their plans in addition to paying variable-rate premiums to the PBGC based on the amount of underfunding. The Pension Stability Act would allow plans to use interest rates on high-grade, long-term corporate bonds to discount their liabilities during plan years 2004, 2005, and 2006. The exact rate to be used by plans would be determined by the Secretary of the Treasury.

Interest rates on corporate bonds are generally higher than those on Treasury bonds. Using a higher interest rate to discount liabilities results in lower projections of the cost of future liabilities. Therefore, firms would have to contribute less to their plans and pay less in variable-rate premiums. Based on information provided by the PBGC, CBO assumes that the applicable corporate bond rate would be roughly 150 basis points higher than the interest rate on 30-year Treasury bonds. CBO estimates that using this higher rate to discount liabilities would reduce the liabilities of underfunded plans by about $30 billion by plan-year 2007. As a result, we estimate that premium receipts would decrease by $367 million, or 4.7 percent, over the 2005–2013 period. Because the PBGC's premiums are offsetting collections to a mandatory spending account, reductions in premium receipts are reflected as increases in direct spending.

The use of higher interest rates could have other effects on the PBGC's costs, but the direction and magnitude of these effects are uncertain. On the one hand, the use of higher interest rates to discount future liabilities would reduce sponsors' contributions, improve their financial position, and make it less likely that they would eventually become bankrupt. Thus, the policy might reduce the number of plans that the PBGC ultimately takes over. On the other hand, the lower contributions would mean that the underfunding for plans that eventually become the responsibility of the PBGC would be greater, thus adding to the agency's costs.

Spending Subject to Appropriation

The legislation would establish a commission designed to study issues related to defined-benefit pension plans and issue a report by December 31, 2005. The commission would be composed of 11 representatives from the executive and legislative branches, plus two members of the public appointed by the President. Commission members would not be compensated for their work, but travel and other expenses would be paid for by various government agencies. Based on the experience of other commissions of similar scope, CBO judges that this provision would cost about $1 million annually over the 2004–2006 period.

Estimated impact on state, local, and tribal governments: CBO has reviewed the non-tax provisions of the bill and determined that they contain no intergovernmental mandates as defined in UMRA. Those provisions also would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: The bill would make changes to ERISA that would temporarily alter existing private-sector mandates related to the funding of private, defined-benefit pension plans. Changing the interest rate required to be used by plans to determine the present value of their pension obligations would reduce the direct cost of the mandates now imposed by ERISA on sponsors of pension plans.

Previous CBO estimates: On November 21, 2003, CBO transmitted a cost estimate for H.R. 3108, the Pension Funding Equity Act of 2003, as passed by the House of Representatives on October 8, 2003. H.R. 3108 would replace the 30-year Treasury rate with a corporate bond rate for a period of two years (plan-years 2004 and 2005), rather than the three-year period specified by the Pension Stability Act. CBO estimated that H.R. 3108 would decrease premium receipts by $279 million over the 2005–2013 period and increase revenues by $304 million over the 2004–2013 period.

On November 18, 2003, CBO transmitted a cost estimate for H.R. 1776, the Pension Preservation and Savings Expansion Act of 2003, as ordered reported by the House Committee on Ways and Means. H.R. 1776 contained various pension reform proposals, including a provision to replace the 30-year Treasury bond rate with a corporate bond rate for three years, the same period of time provided by the Pension Stability Act. CBO estimated that this provision of H.R. 1776 would decrease premium receipts by $469 million over the 2005–2013 period. The estimate for the Pension Stability Act differs from that for H.R. 1776 because CBO revised the methodology it used to determine premium receipts once the Treasury rate is reinstated.

Estimate prepared by: Federal Revenues: Annabelle Bartsch; Federal Outlays: Geoffrey Gerhardt; Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Daniel Wilmoth.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis and G. Thomas Woodward, Assistant Director for Tax Analysis.

VI. Application of Law to the Legislative Branch

The bill amends laws that apply only to private pension plans and does not apply to the legislative branch.

VII. Regulatory Impact Statement

The Pension Stability Act would make changes to the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code that would affect the operations of private pension plans. The committee has determined the regulatory impact of these changes to be minimal.

VIII. Section-by-Section Analysis

Section 1. Title

The bill provides that it may be cited at the "Pension Stability Act."

Section 2. Temporary replacement of interest rate on 30-year Treasury securities with interest rate on conservatively invested long-term corporate bonds

The legislation makes several changes to the Employee Retirement Income Security Act and the Internal Revenue Code of 1986 to replace the 30-year Treasury bond rate with a composite corporate rate as the benchmark for determining certain pension obligations. The bill creates a special rule for the years 2004, 2005, and 2006, during which the permissible range of interest rates and benchmark for determining current liabilities are different from current law. The permissible range is defined during this three-year period as 90 percent to 100 percent of the new benchmark.

The new benchmark shall be the weighted average of the conservative long-term corporate bond rates during the four-year period ending on the last day before the beginning of the plan year. The Secretary of Labor, in consultation with the Secretary of the Treasury, is directed to determine the rate through regulations on the basis of two or more indices that are in the top two quality levels available reflecting average maturities of 20 years or more.

The bill makes conforming amendments to repeal out-of-date lookback rules and clarifies that the appropriate rate in 2007 shall be 105 percent of the 30-year Treasury bond rate.

The bill extends the special rule for 2004, 2005, and 2006, for determining the interest rate for PBGC variable rate premiums in Section 4006(a)(3)(E)(iii) of ERISA.

Finally, in adjusting a benefit in a form other than a straight life annuity for purposes of determining the annual benefit limit of a defined benefit plan under IRC Section 415(b)(2)(E)(ii), the interest rate is changed from 5 percent to 5.5 percent.

Section 3. Commission on defined pension benefit plans

The legislation establishes a 13-member bipartisan blue-ribbon commission to consider reforms to the defined benefit system and to make recommendations to Congress. Membership in the commission includes the Secretaries of Labor and the Treasury, and the Director of the Pension Benefit Guaranty Corporation, or their designees, two members of the general public selected by the President, and one member each selected by the chair and ranking member of the Senate Health, Education, Labor, and Pensions Committee, the Senate Finance Committee, the House Education and the Workforce Committee, and the House Ways & Means Committee.

The scope of the commission purview is broad, but clearly delineated. Among the commission's specific areas of inquiry are the following: How to reform the defined benefit funding and liability rules, the appropriate interest rates for valuing plan liabilities, variable rate premiums, lump sum distributions, the impact of reforms on investment policy and capital markets, appropriate mortality assumptions, including collar adjustments, appropriate transition protections and the need to avoid volatility, and how to create incentives and avoid disincentives to the creation and expansion of defined benefit plans.

The commission is empowered to conduct public hearings, receive testimony, and make comprehensive legislative proposals. It must report its findings and recommendations to Congress by December 31, 2005.

Section 4. Congressional action

The bill provides that Congress must act on the recommendations of the defined benefit commission within 120 days after receipt of the commission's report.

Section 5. Effective dates

In general, the amendments in the legislation providing a temporary replacement interest rate become effective for plan years beginning after December 31, 2003.

For purposes of applying certain rules ("lookback rules") to plan years beginning after December 31, 2003, the amendments made by the provisions may be applied as if they had been in effect for all years beginning before the effective date. For purposes of the provision, "lookback rules" means: (1) the rule under which a plan is not subject to the additional funding requirements for a plan year if the plan's funding current liability percentage was at least 90 percent for each of the two immediately preceding plan years or each of the second and third immediately preceding plan years; and (2) the rule under which quarterly contributions are required for a plan year if the plan's funded current liability percentage was less than 100 percent for the preceding plan year. The amendments made by the provision may be applied for purposes of the lookback rules, regardless of the funded current liability percentage reported for the plan on the plan's annual reports (i.e., Form 5500) for preceding years.

A one-year transition rule is provided to ensure that no person shall receive a lesser amount due to the change in prescribed interest rate under IRC Section 415.

Finally, amendments made by the legislation shall not apply to plan years beginning after December 31, 2006.

IX. Changes in Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman.)

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

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PENSION STABILITY ACT

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Subchapter I—Protection of Employee Benefit Rights

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Subtitle B—Regulatory Provisions

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Part 5—Administration and Enforcement

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MINIMUM FUNDING STANDARDS

SEC. 302. (a)(1) * * *

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(b) * * *

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(5) * * *

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(B) * * *

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(ii) * * *

(I) IN GENERAL.—Except as provided in subclause (II) *or (III)*, the term "permissible range" means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

(II) SPECIAL RULE FOR YEARS 2004, 2005, AND 2006.—In the case of plan years beginning after December 31, 2003, and before January 1, 2007, the term "permissible range" means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary, in consultation with the Secretary of the Treasury, shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for pur-

poses of this subclause. Such rates shall reflect the rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.

⟦(II)⟧ *(III)* SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) *or (II)* is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under ⟦subclause (I)⟧ *such subclause*.

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(d) * * *

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(7) * * *

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(C) * * *

(i) * * *

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(IV) SPECIAL RULE FOR 2004, 2005, AND 2006.—For plan years beginning in 2004, 2005, or 2006, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).

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(e) * * *

(1) * * *

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⟦(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determined current liability is determined under subsection (d)(7)(C)(i)(III)—

⟦(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).

⟦(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).⟧

(7) SPECIAL RULE FOR 2007.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2007, current liability for the preceding plan year shall be redetermined using 105 percent of the annual rate of interest on 30-year Treasury securities for such preceding plan year as the specific percentage determined under subsection (d)(7)(C)(i)(II).

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PART 5—ADMINISTRATION AND ENFORCEMENT

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SEC. 519. COMMISSION ON DEFINED PENSION BENEFIT PLANS.

(a) ESTABLISHMENT OF THE COMMISSION.—

(1) ESTABLISHMENT.—There is established, subject to the Federal Advisory Committee Act, the Commission on Defined Benefit Pension Plans (in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall be composed of 13 members of whom—

(A) 1 shall be the Secretary or their designee;

(B) 1 shall be the Secretary of the Treasury or their designee;

(C) 1 shall be the Executive Director of the Pension Benefit Guaranty Corporation or their designee;

(D) 2 shall be appointed by the President from among members of the general public;

(E) 1 shall be appointed by the chairman of the Committee on Health, Education, Labor, and Pensions of the Senate;

(F) 1 shall be appointed by the ranking minority member of the Committee on Health, Education, Labor, and Pensions of the Senate;

(G) 1 shall be appointed by the chairman of the Committee on Finance of the Senate;

(H) 1 shall be appointed by the ranking minority member of the Committee on Finance of the Senate;

(I) 1 shall be appointed by the chairman of the Committee on Education and the Workforce of the House of Representatives;

(J) 1 shall be appointed by the ranking minority member of the Committee on Education and the Workforce of the House of Representatives;

(K) 1 shall be appointed by the chairman of the Committee on Ways and Means of the House of Representatives; and

(L) 1 shall be appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives.

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(5) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(b) DUTIES OF THE COMMISSION.—

(1) STUDY AND RECOMMENDATIONS.—The Commission shall conduct a thorough study of, and shall develop recommendations on, the following issues relating to defined benefit pension plans:

(A) How to reform the defined benefit pension plan funding rules to increase participants' benefit security, provide rational and predictable funding rules for employers, and protect the financial independence of the Pension Benefit Guaranty Corporation.

(B) The relevance and effectiveness of the current liability rules, and, if such rules are maintained, an analysis of alternative valuation measures for those rules, including the rationale for the measures as well as their strengths and weaknesses.

(C) The appropriate interest rates that should be used in valuing plan liabilities, the variable rate premium, and lump-sum benefits, including whether the rates proposed are transparent, widely understood, publicly available, and resistant to manipulation.

(D) Whether the recommended interest rate would impact the investment policy of the pension trust along with an analysis of the impact on capital markets, the cost of maintaining a pension plan over the long term, and the compatibility of any effect on investment policy with the fiduciary requirements to diversify investments under this Act.

(E) The appropriate mortality assumptions that should be used in valuing plan liabilities.

(F) whether such assumptions should contain a collar adjustment or should otherwise be adjusted to reflect the workforce covered by the plan.

(G) A consideration of other actuarial assumptions used in valuing plan liabilities.

(H) Whether the same interest rate should be used for purposes of both funding and lump sum benefits, including consideration of the effect on plan funding and other purposes for which the interest rate is used if such rate is different for those purposes.

(I) The effect of the interest rate on participants' decisions whether to elect lump sum benefits.

(J) The appropriate means of providing transition protection to participants in the event changes are enacted.

(K) Whether the same interest rate used for funding purposes should also apply for other purposes for which the rate of interest on 30-year Treasury securities is currently used.

(L) The need to avoid volatile funding obligations and how to reform the law to avoid such volatility, including volatility attributable to the recent downturn in the equity markets and significant decrease in interest rates.

(M) The need for predictability, simplicity, and transparency with respect to the calculation of funding obligations, and how to reform the law to achieve such goals.

(N) Effective means that would provide for additional funding in favorable economic periods, so that funding levels can withstand market downturns without requiring large contributions during adverse economic conditions.

(O) How to design transition rules so that funding reforms do not cause short-term hardships for employers or employees.

(P) How to ensure that revisions to funding obligations do not discourage employers from maintaining pension plans.

(Q) How to ensure that required disclosure of funding information is material and relevant without requiring disclosures that impose disclosure requirements that are unnecessarily burdensome, are misleading with respect to the funded status of an ongoing plan, or are not adjusted to reflect the size of the plan.

(R) Other funding and benefit reforms that would promote the creation and expansion of defined benefit plans.

(2) REPORT.—Not later than December 31, 2005, the Commission shall submit a report to the appropriate committees of Congress containing a detailed statement of the findings and conclusions of the Commission, together with the recommendations for such legislation as it considers appropriate (including proposed legislative language to implement the recommendations).

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section. The Commission shall, to the maximum extent possible, use existing data and research prior to holding such hearings.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION; TRAVEL EXPENSES.—Each member of the Commission shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) STAFF AND EQUIPMENT.—The Pension Benefit Guaranty Corporation shall provide all financial, administrative, and staffing requirements for the Commission, including—

(A) office space;

(B) furnishings; and

(C) equipment.

(e) TERMINATION OF THE COMMISSION.—The Commission shall terminate 180 days after the date on which the Commission submits its report under subsection (b)(2).

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Subchapter III—Plan Termination Insurance

Subtitle A—Pension Benefit Guaranty Corporation

SEC. 1306. PREMIUM RATES.

(a) SCHEDULES FOR PREMIUM RATES AND BASES FOR APPLICATION; ESTABLISHMENT, COVERAGE, ETC.—

(1) * * *

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(3)(A) * * *

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(E)(i) * * *

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(iii) * * *

(I) * * *

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(V) In the case of plan years beginning after December 31, 2003, and before January 1, 2007, the annual yield taken into account under subclause (II) shall be the annual yield determined by the Secretary on amounts conservatively invested in long-term corporate bonds for the month preceding the month in which the plan year begins. For purposes of the preceding sentence, the Secretary, in consultation with the Secretary of the Treasury, shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates. Such rates shall reflect the rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.

INTERNAL REVENUE CODE

SEC. 412. MINIMUM FUNDING STANDARDS.

(a) GENERAL RULE.— * * *

(b) * * *

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(5) * * *

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(B) * * *

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(ii) * * *

(I) IN GENERAL.—Except as provided in subclause (II) *or (III)*, the term "permissible range" means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-

year period ending on the last day before the beginning of the plan year.

(II) SPECIAL RULE FOR 2004, 2005, AND 2006.—In the case of plan years beginning after December 31, 2003, and before January 1, 2007, the term "permissible range" means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary of Labor, in consultation with the Secretary, shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for purposes of this paragraph. Such rates shall reflect the rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.

⟦(II)⟧ *(III)* SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) *or II* is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under ⟦subclause (I)⟧ *such subclause*.

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(l) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

(7) * * *

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(C) * * *

(i) * * *

(I) * * *

(IV) SPECIAL RULE FOR 2004, 2005, AND 2006.—For plan years beginning in 2004, 2005, or 2006, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).

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(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

(1) IN GENERAL.— * * *

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⟦(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (*l*)(7)(C)(i)(III)—

⟦(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (*l*)(7)(C)(i)(II).

[(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (*l*)(7)(C)(i)(II).]

(7) SPECIAL RULE FOR 2007.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2007, current liability for the preceding plan year shall be redetermined using 105 percent of the annual rate of interest on 30-year Treasury securities for such preceding plan year as the specific percentage determined under subsection (l)(7)(C)(i)(II).

SEC. 415. LIMITATIONS ON BENEFITS AND CONTRIBUTION UNDER QUALIFIED PLANS.

(a) GENERAL RULE.—

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(b) * * *

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(2) * * *

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(E) * * *

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(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), [the applicable interest rate (as defined in section 417(e)(3))] *5.5 percent* shall be substituted for "5 percent" in clause (i).

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